IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.4793 of 2007

Date of Decision: September 20, 2007

Gurjeet Singh .....Petitioner

Versus

Major Bhim Sain Mehta .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Rakesh Bhatia, Advocate for the petitioner.

S. D. ANAND, J.

The petitioner-tenant is facing an ejectment plea preferred by the respondent-landlord. At the trial, the petitioner applied for leave of the Court to amend the written statement and to thereby aver that the suit for ejectment had not been filed by a competent person. The filing of that application stems from the revelation (in the course of cross-examination) made by the plaintiff-respondent in the course of evidence to the effect that his son is a lawful co-owner of the tenanted premises.

The plea did not find favour with the learned Trial Court which observed that the trial had already commenced and that the defendant-petitioner had already availed of four effective opportunities for producing his evidence. Sustenance, in support of the view, was drawn from the provisions of Order 17 Rule 1 of the Code of Civil Procedure which provide that not more than three opportunities shall be given to a party for adducing evidence at the trial. The learned Trial Court was also influenced by the

fact that the tenant-petitioner had already taken up several preliminary objections regarding maintainability of the suit, non-joinder of the necessary parties and suppression of material and important facts from the Court. The learned Trial Court was of the view that these objections would take care of the plea presently raised by the petitioner-tenant.

It is established law that even when a particular premises is owned by a number of landlords, one landlord is competent to raise a plea against the tenant. In that view of things, it is illogical for the petitioner to draw sustenance from what has allegedly appeared in the testimony of a witness at the trial and to thereby apply for the leave of the Court to amend the written statement.

Dismissed in limine.

(S. D. ANAND)
JUDGE

September 20, 2007
SRM

Note: Whether referred to reporter or not? Yes/No